

BEFORE THE DEPARTMENT OF LIVESTOCK  
OF THE STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PROPOSED
ARM 32.2.405, 32.18.107, and	)	AMENDMENT AND ADOPTION
32.18.110 and the adoption of NEW	)	
RULE I pertaining to Department of	)	NO PUBLIC HEARING
Livestock miscellaneous fees, change	)	CONTEMPLATED
in brand recording, recording and	)	
transferring of brands, and	)	
rerecording of brands	)	

To: All Concerned Persons

1. On July 15, 2013, the Department of Livestock proposes to amend and adopt the above-stated rules.

2. The Department of Livestock will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Livestock no later than 5:00 p.m. on, June 26, 2013 to advise us of the nature of the accommodation that you need. Please contact Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001; telephone: (406) 444-9321; TTD number: 1 (800) 253-4091; fax: (406) 444-4316; e-mail: cmackay@mt.gov.

3. The rules as proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

32.2.405 DEPARTMENT OF LIVESTOCK MISCELLANEOUS FEES

- |   |  |
|---|--|
| (1) brand book CD   | \$15.00  |
| (2) brand book - data download ( <del>limited counties</del> )  | <del>\$15.00</del> <u>fee commensurate with cost</u> |
| (3) brand book - paper copy (per county)  | \$30.00  |
| (4) Certified copy of brand or mark record and duplicate certificate  | <del>\$5.00</del> <u>\$10.00</u>                     |
| (5) through (9) remain the same.  |  |
| (a) if more than ten animals of the same type are offered for inspection on the same day by the same owner, starting with the eleventh animal                           | <del>4.00</del> <u>3.00</u> a head                   |
| (10) remains the same.  |  |
| (11) Livestock inspection before removal from a county or before change of ownership as required by 81-3-205, MCA   | <del>50</del> <u>75</u> cents a head                 |
| (a) cow/calf pairs-spring going to pasture only   | <del>50</del> <u>75</u> cents per pair               |
| (12) Livestock inspection before being sold or offered for sale at a licensed livestock market or slaughtered at a licensed slaughterhouse as required by 81-3-205, MCA | <del>50</del> <u>75</u> cents a head                 |

(13) remains the same.

(14) Recording a new mark or brand, recording a mark or brand transfer  
~~, or recording a mark or brand~~ as required by 81-3-107, MCA ~~\$100.00~~ 200.00

(a) rerecording a mark or brand as required by 81-3-107, MCA \$100.00

(15) Releasing an animal, except horses, mules, or asses, for  
purpose of removal from a licensed livestock market as required by  
81-3-205, MCA ~~50~~ 75 cents a head

(16) remains the same.

AUTH: 81-1-102, 81-22-102, MCA

IMP: 81-3-107, 81-3-205, 81-3-211, 81-8-304, 81-9-112, MCA

32.18.107 CHANGE IN BRAND RECORDING (1) Once the department has  
begun processing a recording of a brand, any changes proposed in the original  
application will be considered a new application and an additional recording fee of  
~~\$100~~ 200 will be charged.

(a) the fee for rerecording of a brand or mark will remain at \$100.00.

AUTH: 81-1-102, MCA

IMP: 81-1-102, 81-3-107, MCA

32.18.110 RECORDING AND TRANSFERRING OF BRANDS (1) through  
(4) remain the same.

(a) fifty percent of the fee to record or transfer a brand is nonrefundable;

(b) through (5)(c)(ii) remain the same.

(iii) the applicant will have ten working days from the date of the offer letter to  
accept the offered available option.

(iv) If the applicant's reply is received after the ten working days deadline it  
will be considered a new application and must be rechecked for conflicts and will  
require an additional ~~\$100~~ \$200 fee.

(6) and (6)(a) remain the same.

(b) if the original owner of the transferring brand is deceased, a copy of the  
death certificate and ~~power of attorney or~~ appropriate documentation (i.e., personal  
representative or executor paperwork) must be provided to complete the transfer;

(c) through (d)(i) remain the same.

(ii) businesses and trusts must be registered with the Montana Secretary of  
State's office, ~~or provide proof of registry with another state;~~

(e) through (7) remain the same.

(8) Changes to image, species, or position require submission of a new  
brand application and an additional ~~\$100~~ \$200 fee.

(9) through (11) remain the same.

AUTH: 81-1-102, 81-3-104, 81-3-106, MCA

IMP: 81-1-102, MCA

4. The proposed new rule provides as follows:

NEW RULE I RERECORDING OF BRANDS (1) Rerecording of brands is required each tenth year after 1921 per 81-3-104, MCA.

(a) The rerecord fee is \$100 per brand.

(i) Brand owners requesting transfer while rerecording their brand shall be charged a separate \$100 for the completion of the transfer.

(b) Between January and June of each rerecord year the department shall publish a notice to the effect that the year is a rerecord year for brands, in a newspaper in each county.

(c) The department shall mail to each recorded brand holder a similar notice addressed to the person at the last address shown in department records.

(i) Said notice shall advise the brand holder of the rerecord deadline and that no brand continues of record unless rerecorded prior to designated deadline.

(ii) A brand not originally rerecorded with the department by 12 midnight on December 31 of the rerecord year is not of record in the department.

(d) A former brand holder who has failed to rerecord in the preceding rerecord year and has therefore dropped the brand must reapply and submit the \$200 application fee.

(i) Such reapplication must be treated as a new brand application and is subject to all applicable new brand restrictions.

AUTH: 81-1-102, MCA

IMP: 81-1-102, 81-3-107, MCA

REASON: Fees must, by statute, be set at levels commensurate with the costs of performing duties as required. Brand enforcement duties and services were evaluated and fees were adjusted accordingly. The department must continue to provide much-utilized services to the Montana livestock industry in order to assure that the mission of the department continues. Rerecord processes and restrictions per 81-3-104 and 81-3-106, MCA were not in department administrative rule and have been included to provide clarification to potential and present brand holders. Rerecord, by statute, takes place every tenth year from 1921 with the brands division utilizing ten percent for each of the next ten years for division administration.

The fees charged by the department will potentially affect approximately 1,500 brand applicants and transfers. The cumulative amount of the brand application/transfer fee increase will be \$150,000 based on this number of requests. The inspection fee increase will apply to approximately 1,800,000 cattle inspections for a cumulative fee increase of \$450,000.

5. Concerned persons may submit their data, views, or arguments in writing to Christian Mackay, 301 N. Roberts St., Room 308, P.O. Box 202001, Helena, MT 59620-2001, by faxing to (406) 444-1929, or by e-mailing to MDOLcomments@mt.gov to be received no later than 5:00 p.m., July 8, 2013.

6. If persons who are directly affected by the proposed action wish to express their data, views, and arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit this request along with any written

comments they have to the same address as above. The written request for hearing must be received no later than 5:00 p.m., July 8, 2013.

7. If the department receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a public hearing will be held at a later date. Notice of the public hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected have been determined to be more than 25, based upon the population of the state.

8. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the department.

9. An electronic copy of this Proposal Notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

10. The department intends to apply these rule amendments effective July 1, 2013.

11. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

#### DEPARTMENT OF LIVESTOCK

BY: /s/ Christian Mackay  
Christian Mackay  
Executive Officer  
Board of Livestock  
Department of Livestock

BY: /s/ George H. Harris  
George H. Harris  
Rule Reviewer

Certified to the Secretary of State May 28, 2013.